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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,118

11/19/2003

Kevin Krietemeyer

12406/79

9903

26646 7590 10/31/2007
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

FERNSTROM, KURT

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,118

Applicant(s)

KRIETEMEYER, KEVIN

Examiner

Kurt Fernstrom

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-46, 48-58, 62, 63 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak. Jarvis discloses in Figures 1 and 2 and in column 2, line 24 to column 3, line 18 of the specification a method and device of playing a lottery comprising a gaming slip 12 comprising a substrate having gaming information printed thereon, including a random request region 26 that enables a plurality of computer-generated picks to be requested in conjunction with a lottery via a written mark made with a writing instrument. Column 3, lines 3-17 in particular discusses the use of a computer to generate picks when a random request is received. Jarvis fails to disclose that a plurality of quick picks may be selected for a single game. Novak discloses in Figure 4 and in column 9, lines 51-64 that a lottery game whereby a player may enter a plurality of quick picks for the same game. Column 5, lines 27-33 also discloses a plurality of quick picks for the same game. It would have been obvious to one of ordinary skill in the relevant art to modify the device and method comprising a random request region which enables a plurality of computer-generated picks to be requested for a single game for the purpose of allowing the user to easily generate a

plurality of picks for a game, thereby increasing the chances of winning. With respect to claims 42, 45, 58 and 69, both Jarvis and Novak disclose future draw lottery games. With respect to claim 43, 46, Jarvis discloses in Figure 3 a ticket which is generated by the method, displaying the randomly generated picks. With respect to claims 44 and 62, Jarvis discloses a plurality of random request regions 26, each region corresponding to one of a plurality of games, such that random picks are generated corresponding to each random request region. With respect to claims 48, 49 and 56, Jarvis discloses that a manual selection region 14 including one or more manually selected numbers is provided which enables a manual pick to be made, the manual picks then being generated on a ticket. With respect to claims 50 and 57, Jarvis discloses that a draw request region 22 is provided which enables picks to be played for a plurality of drawings. With respect to claims 51-53, a machine readable medium as claimed is inherent in the disclosure of Jarvis, in particular that portion which discusses the use of a computer to generate random numbers in response to a random request. With respect to claim 63, Jarvis discloses that the substrate is unperforated. While Jarvis is silent as to the material used for the ticket, Official Notice is taken that paper is an extremely well known type of material to use for gaming slips, and would have been an obvious means to allow a user to make a request with a writing instrument which can then be fed into and processed by a computer. With respect to claim 65, Jarvis discloses that each computer generated pick comprises a plurality of randomly selected numbers.

Claims 47, 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak, and further in view of Alvarez. Jarvis as viewed in combination with Novak discloses all of the limitations of the claims with the exception of the substrate having a plurality of game panels corresponding to different games. Alvarez discloses in Figures 4-7 and in column 5, line 37 to column 6, line 10 of the specification a device and method comprising a substrate 10 having gaming information corresponding to different games thereon. Figures 6 and 7 in particular show gaming information corresponding to different games, where the sections of Figures 6 and 7 are part of the same substrate as shown in Figures 4 and 5. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Jarvis as viewed in combination with Novak by providing a plurality of game panels corresponding to different games for the purpose of allowing a user to easily select numbers for different games. While the substrate of Alvarez does not disclose or suggest random request regions, this feature is already suggested by Jarvis as viewed in combination with Novak. With respect to claim 47, the generation of separate tickets is inherent in the method of Alvarez, as the game slips are detachable and can be submitted separately.

Claims 59-61 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak, and further in view of Alexoff. Jarvis as viewed in combination with Novak discloses all of the limitations of the claims with the exception of marking one box to indicate the number of computer-generated picks to be played. Alexoff discloses in Figure 4 a gaming slip with a "Number of Plays" section at the bottom, where the player selected the number of picks to be plays by marking one box.

Art Unit: 3711

While in the primary embodiment of Alexoff this feature is generally related to the number of consecutive days on which picks are to be played, Alexoff discloses in column 4, lines 1-16 an alternative embodiment where a player may play multiple picks for the same drawing. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Jarvis as viewed in combination with Novak by providing an area whereby a player may mark a box to select the number of picks to be played for the purpose of providing "instant gratification" to a user, as discussed at column 4, lines 11-16 of Alexoff.

Response to Arguments

Applicant's arguments filed on August 10, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Novak teaches the concept of making a single request for a plurality of randomly generated picks for a lottery game. Whether Novak teaches away from the use of manual playslips is immaterial, as Novak is not cited as the primary reference and no proposed

Art Unit: 3711

modifications are being made to the device and method of Novak. Rather it is the device and method of Jarvis which is being modified in light of the teachings of the other references cited. Because the references when viewed in combination suggest the claimed invention, claims 41-69 are rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KF
October 29, 2007



**KURT FERNSTROM
PRIMARY EXAMINER**